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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

G23

FILE:

Office: NEW YORK Date: JUN 28 2004

IN RE:

Obligor:  
Bonded Ali

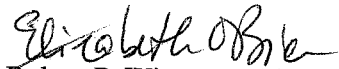
IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration  
and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR:

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, New York, New York, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The record indicates that on May 30, 2000 the obligor posted a \$500.00 bond conditioned for the voluntary departure of the above referenced alien. An order of the immigration judge (IJ) dated May 23, 2000, was issued granting the alien voluntary departure in lieu of removal. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On June 24, 2002, the BIA affirmed, without opinion, the IJ's decision and granted the alien voluntary departure within 30 days from the date of the order. On May 20, 2003, the field office director concluded the bond had been breached.

8 C.F.R. § 103.3(a)(2)(v)(B) states:

*Untimely appeal--(1) Rejection without refund of filing fee.* An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

*Untimely appeal--(2) Untimely appeal treated as motion.* If an untimely appeal meets the requirements of a motion to reopen as described in section 103.5(a)(2) of this part or a motion to reconsider as described in section 103.5(a)(3) of this part, the appeal must be treated as a motion, and a decision must be made on the merits of the case.

Counsel's statement, on appeal, does not meet the requirements of a motion.

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The decision dated May 20, 2003 clearly advised the obligor that any appeal must be filed within thirty days. Coupled with three days for mailing the appeal, in this case, should have been filed on or before June 23, 2003. The envelope containing the appeal was postmarked July 1, 2003, and received by ICE on July 2, 2003.

Based upon the obligor's failure to file a timely appeal, the appeal will be rejected.

**ORDER:** The appeal is rejected.